

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

24-cr-672 (MKV)

-v-

AMARI ROLLE,

SCHEDULING ORDER

MARY KAY VYSKOCIL, United States District Judge:

The Court is in receipt of a joint letter from the parties requesting that the *Fatico* hearing scheduled in this matter for June 12, 2025 at 11:00 AM be adjourned to the date and time of the sentencing hearing scheduled in this matter for June 26, 2025 at 2:00 PM. [ECF No. 38]. In this joint letter the parties explain that they do not agree on the applicability of the cross-reference in U.S.S.G. § 2K2.1(c)(1)(A), but “[w]hether the cross-reference applies will principally come down to what the Court infers from the surveillance footage that has now been provided to the Court” along with the “parties’ respective positions on what that footage shows.” [ECF No. 38]. The parties urge that since “[n]either side intends to call a witness or otherwise to present testimony with respect to the video footage,” a *Fatico* hearing separate from the sentencing hearing on this particular issue is not necessary.

However, in this joint letter the parties also identify a new dispute regarding “the Government’s assertions about the defendant’s gang affiliation and the gang-related nature of the shooting in this case” and state that a *Fatico* “hearing would be appropriate” to resolve this issue. [ECF No. 38]. The parties have advised that they are currently exchanging discovery and information on this newly raised issue including potential testimony. [ECF No. 38]. The parties state that this “discrete matter could be addressed at a *Fatico* hearing the same day as the sentencing.” [ECF No. 38].

The Court previously advised the parties at the time Defendant entered his guilty plea that to the extent the parties intend to present evidence at a *Fatico* hearing, the Court's preference is to conduct the *Fatico* hearing prior to sentencing. [ECF No. 31]. Accordingly,

IT IS HEREBY ORDERED that, based on the parties representations in the joint letter the *Fatico* hearing scheduled for June 12, 2025 at 11:00 AM is ADJOURNED to June 26, 2025 at 2:00 PM. At the *Fatico* hearing the Court will determine based on the evidence and testimony presented whether it is appropriate to move forward with sentencing that day or whether the sentencing in this matter should be scheduled for a later date.

IT IS FURTHER ORDERED that on or before June 19, 2025 the parties must file on the docket a joint letter that identifies any witnesses that either party plans to have testify and any other evidence that either party intends to offer at the June 26, 2025 *Fatico* hearing.

The Clerk of Court is respectfully requested to terminate the motion pending at ECF No. 38.

SO ORDERED.

Date: June 11, 2025
New York, NY



MARY KAY VYSKOCIL
United States District Judge